

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA

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Case No. 3:24-CR-00009

v.

DAVEY JOHNATHAN SISK

AGREED STATEMENT OF FACTS

This Agreed Statement of Facts briefly summarizes the facts and circumstances surrounding the criminal conduct at issue in this case and provides an independent factual basis for DAVEY JOHNATHAN SISK's guilty plea to Counts Three, Seven, and Eight of the Superseding Indictment. Count Three charges SISK with sexually exploiting, and attempting to sexually exploit, a child, MV3, in violation of 18 U.S.C. § 2251(a), (e); Count Seven charges SISK with sexually exploiting, and attempting to sexually exploit, a child, MV2, in violation of 18 U.S.C. § 2251(a), (e); and Count Eight charges SISK with receiving child pornography from MV1 in violation of 18 U.S.C. § 2252A(a)(2) & (b).

This Statement of Facts does not contain all information obtained during this investigation and applicable to an accurate Presentence Report and Sentencing Guidelines calculation. This Statement of Facts is not protected by proffer agreement or any other agreement and shall be wholly admissible at trial notwithstanding any Rules or statutes to the contrary, including but not limited to, Federal Rules of Evidence 408 and 410, and Federal Rule of Criminal Procedure 11.

Had this matter gone to trial, the United States would have proven the following facts beyond a reasonable doubt through admissible evidence:

1. Between in or around June 2023 and in or around February 2024, in the Western District of Virginia and elsewhere, SISK used the social media application Telegram to communicate with Anna Layher a/k/a Anna Morrow. SISK's Telegram account name was Lilly Smoot. Layher's telegram account name was Anna Morrow. Both SISK and Layher accessed Telegram using their cellular phones.

2. In their Telegram conversations, SISK directed Layher to create and send him visual depictions of minors engaged in sexually explicit conduct on multiple occasions. Those minors included MV2 and MV3. At the time of SISK's criminal conduct charged in Counts Seven and Eight, MV2 was six years old and MV3 was three years old. SISK was aware of MV2 and MV3's ages because he had interacted with both MV2 and MV3 in person on multiple occasions.

3. At SISK's request and direction, Layher created and sent to SISK visual depictions of both MV2 and MV3 engaged in sexually explicit conduct.

4. For example, on or about July 31, 2023, SISK requested that Layher have sexual contact with MV3 and send SISK a video recording of that sexual contact.

5. Telegram messages exchanged on or about July 31, 2023, between SISK and Layher include:

Lilly Smoot
Suck him and fuck him

Anna Morrow
Davey come back
I'm so tired of not being happy

Lilly Smoot
Just suck him and fuck him
Put him in u

Anna Morrow

No

Lilly Smoot

Anna grace for me

Anna Morrow

I'm about to hang on

Lilly Smoot

Hurry

Anna Morrow

you still gonna talk to me?

Lilly Smoot

I want to see up close

Hurry babe

6. A video was created on July 31, 2023, in connection with SISK's requests. That video depicts Layher attempting to insert MV3's penis into Layher's vagina and was located on Layher's cellular phone.

7. As another example, on or about February 12, 2024, through on or about February 14, 2024, SISK repeatedly requested that Layher send SISK sexually explicit pictures and videos of MV2 and work with MV2 to "take" a sex toy.

8. Telegram messages exchanged on or about February 12, 2024, between SISK and Layher include:

Lilly Smoot

Pictures video

My dick hard af rn thinking about her

Lilly Smoot

U coach her

Anna Morrow

Come over tonight.

Lilly Smoot

Pictures video

Want to nut

Anna Morrow

She won't let me she wants the real thing

Lilly Smoot

Bs

Pictures like I told u

Anna Morrow

Are you going to come over?

Lilly Smoot

And a story with all the details

Lilly Smoot

U heard me dude

Anna Morrow

Cause I keep getting fucked over by everybody

Lilly Smoot

Full story and doggy pics

Now

Lilly Smoot

Dude do what ur told

Last time I ask

9. A video was created on February 12, 2024, in connection with SISK's requests.

That video depicts MV2 and was located on Layher's cellular phone. At the start of the video, MV2 is fully clothed, standing in a bedroom. MV2 then takes off all clothing and is standing nude in the bedroom. Layher directs MV2 to position MV2's back toward the camera. Layher tells MV2, while nude, to "touch our toes", and to "go like this", in which Layher and MV2 place both hands on the ground with their legs partially or fully extended, and with both arms appearing to be fully extended. In the video, MV2's genitalia was exposed to the camera. At the end of the video, Layher retrieved the camera and zoomed in on MV2's genitalia and anus, while MV2 was bent over.

10. Telegram messages exchanged on or about February 13, 2024, between SISK and Layher include:

Lilly Smoot

Need to work with her to take the toy

Anna Morrow

I popped

Lilly Smoot

Wym

Anna Morrow

Idk I just know I popped I have a narrow pelvis

Lilly Smoot

Explain

And get her to take toy

11. A video was created on February 13, 2024, in connection with SISK's requests. That video depicts MV2 and was located on Layher's cellular phone. In the video MV2 is seated on a bed and given a glove by a female. MV2 places a glove on one hand and is handed an orange sex toy ("dildo"). MV2 takes the dildo in MV2's hand and inserts it into MV2's genitalia.

12. Between in and around June 2022, and in and around May 2023, in the Western District of Virginia and elsewhere, SISK communicated with a Snapchat account associated with MV1, [MV1]_limon.¹ SISK used Snapchat account JAKESMOOT2021 to communicate with [MV1]_limon. During this time period, Snapchat account [MV1]_limon sent several videos depicting MV1 engaged in sexually explicit conduct to SISK's Snapchat account. At the time of SISK's criminal conduct, MV1 was under the age of eighteen and resided in Texas.

13. For example, on or about March 21, 2023, [MV1]_limon sent a video to SISK in which MV1, whose face is visible throughout the video, is observed squatting low to the ground with MV1's genitalia exposed to the camera. In the video, MV1 exposed MV1's genitalia and

¹ This Snapchat account name has been redacted because it contains MV1's first name.

anus to the camera and was observed rubbing the outside of MV1's genitalia with MV1's hand.

On or about March 21, 2023, SISK sent \$90 to a Cash App account associated with MV1.

14. Between June 2022 and May 2023, SISK sent approximately \$465 through Cash App to a Cash App account associated with MV1.

15. SISK admits using and controlling the following social media accounts: Telegram, account name Lilly Smoot; and Snapchat, account name JAKESMOOT2021.

16. The criminal conduct described in the preceding paragraphs took place in the Western District of Virginia.

With respect to Counts Three and Seven, the facts described above demonstrate that on or about the dates indicated in the Superseding Indictment: (1) SISK employed, used, persuaded, induced, enticed or coerced, or did attempt to employ, use, persuade, induce, entice or coerce the victim to take part in sexually explicit conduct for the purpose of producing a visual depiction of such conduct; (2) at the time, the victim was a minor; and (3) SISK knew or had reason to know that such visual depiction would be mailed or transported across state lines or in foreign commerce; or that the visual depiction was produced using materials that had been mailed, shipped, or transported across state lines or in foreign commerce by any means; or that the visual depiction was mailed or actually transported across state lines or in foreign commerce.

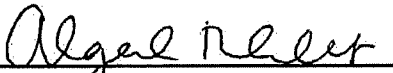
With respect to Count Eight, the facts described above demonstrate that on or about the dates indicated in the Superseding Indictment: (1) SISK knowingly received a visual depiction of sexually explicit conduct; (2) the production of such item involved the use of a minor; (3) the item was shipped, transported, or mailed in interstate or foreign commerce by any means, including by computer; and (4) SISK knew that such item contained child pornography.

I, DAVEY JOHNATHAN SISK, have reviewed the above Statement of Facts with my attorney and believe the facts are true and correct. I agree that had this matter proceeded to trial, the United States would have proven the facts outlined above through admissible evidence beyond a reasonable doubt.

Date: 6/5/24
DS



DAVEY JOHNATHAN SISK
Defendant

Date: 6-5-2024


ABIGAIL THIBEAULT
Counsel for Defendant
MD Bar No. 1803010004

Had this matter proceeded to trial, the United States would have proved the facts outlined above beyond a reasonable doubt. The government reserves the right to present additional evidence at the time of sentencing regarding relevant conduct of the defendant.

Date: 6/7/2024


SALLY J. SULLIVAN
Assistant United States Attorney
D.C. Bar No. 1021930